

In The Matter Of:
United States vs.
PFC Bradley E. Manning

Vol. 32
August 9, 2013
UNOFFICIAL DRAFT - 8/9/13 Morning Session

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VOLUME XXXII

IN THE UNITED STATES ARMY

UNITED STATES

VS.

MANNING, Bradley E., Pfc. COURT-MARTIAL

U.S. Army, xxx-xx-9504

Headquarters and Headquarters Company,

U.S. Army Garrison,

Joint Base Myer-Henderson Hall,

Fort Myer, VA 22211

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The Hearing in the above-titled matter was

continued Friday, August 9, 2013, at 10:01 a.m., at

Fort Meade, Maryland, before the Honorable Colonel

Denise Lind, Judge.

DISCLAIMER

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1 **APPEARANCES:**

2
3 **ON BEHALF OF GOVERNMENT:**

4 **MAJOR ASHDEN FEIN**

5 **CAPTAIN JOSEPH MORROW**

6 **CAPTAIN ANGEL OVERGAARD**

7 **CAPTAIN HUNTER WHYTE**

8 **CAPTAIN ALEXANDER von ELLEN**

9
10 **ON BEHALF OF ACCUSED:**

11 **DAVID COOMBS**

12 **CAPTAIN JOSHUA TOOMAN**

13 **MAJOR THOMAS HURLEY**

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August 9, 2013

WITNESS: REAR ADMIRAL KEVIN DONEGAN

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1 PROCEEDINGS,

2 (When the proceedings began, there was no
3 audio available.)

4 (Judge Lind is reading from new exhibit.)

5 That will be Appellate Exhibit next in
6 line.

7 MAJOR HURLEY: Court 12 and 6 is the first
8 group.

9 THE COURT: Well, I don't have the exhibit
10 in front of me. The Court Reporter has it.

11 MAJOR HURLEY: I'm sorry.

12 THE COURT: 1, 2 and 6 is the first one. 3
13 and 5 is the second one. Oh, I see. I have got two
14 6's.

15 MAJOR HURLEY: 4 is the second.

16 THE COURT: What I'll do is, let me clarify
17 that. I'll take this ruling back with me and do that.
18 Might be I just made a transposition of numbers. Let
19 me see the exhibit that you initially filed with the
20 objections and maybe I can clear this up now.

21 (Pause)

1 Major Hurley, I'll confirm with the
2 exhibit, but just looking at the ruling, 3 and 5 are
3 Number 2. I think that's right. The one following
4 that is Number 4. I'll double-check with the exhibit.
5 And then it should only be 3 and 5 above. So just 4
6 will be separate. Let me double-check.

7 MAJOR HURLEY: (Inaudible.)

8 THE COURT: I'll double-check with the
9 exhibit and confirm and then fix the typo in the ruling
10 and we'll go forward from there.

11 So after I fix the typo, we'll have it as
12 the next Appellate Exhibit in line.

13 Here comes the exhibit. The correct one
14 would be 1, 2 and 6. Second bullet would be 3 and 5.
15 The third bullet instead of 6 is 4. And it would be
16 unlike 3 and 5 above. I will fix that and we'll have
17 the correct numbers. Thank you for bringing that to my
18 attention.

19 There have been a number of Appellate
20 Exhibits that have been filed since yesterday. Major
21 Fein, would you like to set those for us.

1 MR. FEIN: Yes, Ma'am. First, Your Honor,
2 Appellate Exhibit 646 is the Prosecution's request to
3 substitute photographs of certain physical evidence set
4 for trial dated 9 August, 2013.

5 Appellate Exhibit 647 the Defense's
6 specific objections under RCM 1001(b)(4) for Commander
7 Aboul-Enein's testimony, dated 8 August 2013.
8 Appellate Exhibit 648 is Prosecution's response to the
9 Defense's specific objections under RCM 1001(b)(4) for
10 Commander Aboul-Enein dated 8 August 2013.

11 THE COURT: Wait a minute. You said
12 Prosecution response to --

13 MR. FEIN: Prosecution's response to
14 Appellate Exhibit 647.

15 THE COURT: My copy has it marked as
16 Appellate Exhibit 647. Is there something not correct
17 about this?

18 MR. FEIN: May I have a moment, Your Honor.
19 (Pause)

20 Original has been marked Appellate Exhibit
21 646, as previously stated, Prosecution's request for

1 substitute photographs, physical evidence dated 9
2 August. Appellate Exhibit 647 is the Defense specific
3 objection to RCM 1001(b)(4) for Commander Aboul-Enein

4 Appellate Exhibit 648 is the Prosecution's
5 response to the Defense specific objection under RCM
6 1001(b)(4) for Commander Aboul-Enein. Appellate
7 Exhibit 649 -- Your Honor, I also missed one Appellate
8 Exhibit 645, Government's motion for appropriate relief
9 from mental health records. That is Appellate Exhibit
10 645.

11 Appellate Exhibit 649 is an email from the
12 Defense to the Prosecution outlining the basis of
13 Commander Ottman testimony. Appellate Exhibit 649

14 THE COURT: Okay. Take a look at my copy.
15 Maybe that was handwritten or something incorrect.

16 MR. FEIN: Yes, Ma'am.

17 THE COURT: I think it's just my copy that
18 was mis-numbered. So we'll change that.

19 Let's begin with the Prosecution's request
20 to substitute photographs for certain physical evidence
21 in record of trial 646. Defense, any objection?

1 MR. COOMBS: No, Your Honor.

2 THE COURT: All right. In that case the
3 request to substitute photographs for the physical
4 evidence that is attached, photographs attached is
5 granted.

6 Prosecution response to Defense specific
7 objections under RCM 1001(b)(4) for Commander
8 Aboul-Enein, the Court will take that under advisement.
9 I have the Defense's objections and will issue a ruling
10 probably sometime today.

11 I have the Government motion for
12 appropriate relief mental health records. Appellate
13 Exhibit 645 and Defense's corresponding email. And
14 that was Appellate Exhibit 649.

15 Counsel and I briefly met in an RCM 802
16 conference earlier before coming on the record today.
17 And I believe the parties advised me that what really
18 is at issue here is the, whether the Defense has to
19 produce the long form RCM 706 Form to the Government,
20 if they call one of their witnesses, Dr. Bolton, on
21 Wednesday and whether he can testify about certain

1 statements made by the accused. Is that at the end of
2 the day the underlying issues?

3 MR. FEIN: Yes, Ma'am. But that's assuming
4 after we confirm with Dr. Bolton that the basis of his
5 testimony is what has been provided and we get the
6 remaining material, such as his notes, interview notes
7 from him. That would be the only thing.

8 THE COURT: All right. Defense, any other
9 remaining issues?

10 MR. COOMBS: I don't believe so, Your
11 Honor.

12 THE COURT: I have the email from the
13 Defense. I asked the Defense to provide the Court a
14 written filing over the weekend. And the Court will
15 consider the filing, as well as cases provided by the
16 parties.

17 And we'll have oral argument on this motion
18 on Monday morning. And the Court will issue a
19 ruling -- this witness isn't scheduled to testify until
20 Wednesday, so the Court will issue a ruling in advance
21 of his testimony.

1 Is there anything else we need to address
2 before we call the witness?

3 MR. FEIN: No, Ma'am.

4 THE COURT: Does either side wish to add
5 anything further to what we discussed in the RCM 802
6 conference?

7 MR. COOMBS: No, Ma'am.

8 MR. FEIN: No, Ma'am.

9 THE COURT: Please call the witness.

10 CAPTAIN MORROW: Your Honor, United States
11 calls Rear Admiral Kevin Donegan.

12 Whereupon,

13 REAR ADMIRAL KEVIN DONEGAN,
14 called as a witness, having been first duly sworn to
15 tell the truth, the whole truth, and nothing but the
16 truth, was examined and testified as follows:

17 EXAMINATION BY CAPTAIN MORROW

18 BY CAPTAIN MORROW:

19 Q. Sir, you are Rear Admiral Kevin Donegan,
20 Director, Warfare Integration Pentagon?

21 A. That's correct.

1 Q. Sir, how long have you been the Director of
2 Warfare Integration?

3 A. A little over a year.

4 Q. And what is Warfare Integration?

5 A. Warfare Integration is a position on the
6 Navy staff where we integrate the budget of four of our
7 Warfare areas into what would be a cohesive plan so
8 that we can get the best and most for our money. It's
9 responsible for about a \$90 billion a year portfolio.

10 Q. And, sir, what are your general
11 responsibilities in that position?

12 A. I oversee -- I coordinate with four
13 specific warfare areas to take their individual
14 portfolios where they balance their budget, but then
15 bring them in and work across the entire Navy to ensure
16 that we will get, when we put it all together, the best
17 force that we can get. So that effort takes a lot of
18 back and forth and coordination across a large staff.

19 THE COURT: Before you continue. You said
20 you coordinate with four warfare something. What was
21 the "something?"

1 THE WITNESS: Warfare areas. So maybe we
2 break down our portfolios by warfare, aviation warfare
3 and surface warfare would be another for instance.

4 THE COURT: Thank you.

5 BY CAPTAIN MORROW:

6 Q. Sir, prior to taking the position as
7 Director of Warfare Integration for the Navy, where
8 were you assigned?

9 A. I was assigned to U.S. Central Command as
10 the Director of Operations.

11 Q. Is that the J3, sir?

12 A. That is called the J3, that's correct.

13 Q. And, sir, how long were you in CentCom J3?

14 A. I was a J3 for a little over two years.

15 Q. So approximately May 2010 to June 2012?

16 A. That's correct.

17 Q. And, sir, broadly what were your
18 responsibilities as the Director of Operations?

19 A. They are relatively large. The CentCom
20 area of responsibility is 20 countries and extends from
21 Egypt all the way through the Kazakhstan and includes a

1 large portion, as you know, of the Middle East, with
2 the exception of Israel.

3 And my job as Director of Operations was to
4 be responsible for the directing operations across all
5 those countries, and particularly, in addition, we had
6 two areas of hostility for a majority of the time that
7 I was there, one in Iraq and one in Afghanistan. So we
8 would also be responsible for the direction of
9 operations in those areas, although we had to do that
10 through another four star commander that was
11 subordinate to us.

12 Q. Sir, in the places where there weren't
13 geographic commanders, for example, Iraq and
14 Afghanistan, what was CentCom's role and what was your
15 role in particular as a J3 in those areas in terms of
16 overseeing operations?

17 A. I wouldn't call those geographic
18 commanders. They were commanders of task force or
19 operations. CentCom is the geographic commander.

20 We would also oversee operations in all the
21 other countries running from security cooperation,

1 humanitarian assistance, disaster relief to
2 counterterrorism operations. And they run the gamut.
3 So each of those countries we would have varying
4 degrees of levels of operations, some train and
5 assistance, security force training with other
6 countries, some direct partnering with them and
7 counterterrorism operations and depending on what
8 country is the depth and level of operations we would
9 be.

10 Q. And, sir, with respect to Iraq and
11 Afghanistan did your travel forward at all as part of
12 your responsibilities for operations?

13 A. I did. We had a forward headquarters based
14 in Qatar and I, probably every two months, certainly
15 not than less every three months, I would go forward to
16 base headquarters for an operation, exercise and then
17 move typically when I was there I would visit either
18 Iraq, Afghanistan, Yemen or some of the other countries
19 that we have our operations --

20 Q. And, sir, are you here today to discuss the
21 impact to operations within the CentCom AOR that you

1 observed as a result of the unauthorized release by
2 WikiLeaks, information by WikiLeaks?

3 A. I am.

4 Q. Sir, we'll get back to your time at CentCom
5 later. I would like to talk about your career a little
6 bit.

7 How long have you been in the Navy?

8 A. About 33 years.

9 Q. Sir, what was your functional area; what
10 were you doing?

11 A. I'm a pilot. I'm specifically an F18 pilot
12 is how my career started out.

13 Q. Sir, what can you sort of give the Court a
14 flavor for your command assignments, your operation
15 assignments.

16 A. I guess, we don't necessarily specialize as
17 flight officers but we follow different career tracks.
18 Mine has concentrated pretty much on operations,
19 control of operations throughout my tenure.

20 I had commands of four organizations from a
21 strike fighter squadron up through multiple carrier

1 task force.

2 Q. Sir, what about other operational
3 assignments, joint operational assignments, other than
4 that?

5 A. I was -- I worked on the staff of a NATO
6 command in Europe. And then was also in Bosnia working
7 for the United Nations Protection Force coordinating
8 their NATO air operations support before we had U.S.
9 troops there.

10 So I was forward direct to what was then
11 Sarajevo, which was not an embargoed city at the time.

12 Q. Yes, sir. In your command assignments did
13 you have the opportunity to deploy to CentCom AOR --

14 A. In each of my ship going assignments I
15 deployed to the CentCom area of responsibility in
16 almost each of those. So the majority of my forward
17 deployed time, if I wasn't in the Pacific, I was in
18 CentCom area of operations.

19 When I was command, my forces supported
20 Iraq and Afghanistan directly, our operations in Iraq
21 and Afghanistan.

1 Q. Yes, sir. Can you describe the process to
2 be selected as the J3 at CentCom?

3 A. Since it's a joint position and relatively
4 important, each service submits a nomination, a
5 two-star general, a flight officer nomination to the
6 joint staff for the position.

7 And then your records are reviewed and then
8 you are selected in a process the joint staff uses for
9 to up to the CentCom commander who he chooses as J3.
10 At that time it was General Petraeus.

11 Q. Sir, who are the other CentCom commanders
12 you worked for as your job?

13 A. General Petraeus was who was there when I
14 got hired. Then he after some months went into
15 Afghanistan and took over our subordinate command in
16 Afghanistan, which is U.S. Forces Afghanistan and staff
17 commander.

18 When he did that, the Deputy Commander,
19 General Allen, took over as the Commander of CentCom, I
20 think it was about four months, until General Maddox
21 came in to take over as Director of CentCom. So the

1 lion's share of my time was working for those three
2 individuals.

3 Q. And, sir, approximately how many
4 individuals were on your staff as the Director of
5 Operations?

6 A. The staff just in the CentCom headquarters
7 was probably about 300. But we had liaison officers in
8 other parts of our organization around. So I would say
9 about 300 direct reports.

10 Q. And, sir, could you describe the
11 operational tempo at CentCom headquarters when you were
12 the J3?

13 A. Yeah, that's pretty easy. It is very fast
14 paced and busy, and still is to this day, as you can
15 imagine. At the time that I took over as the J3, of
16 course, we had ongoing options in Iraq.

17 At that time we were -- we had about
18 100,000 troops in Iraq and we were then building some
19 plans to draw down to 50,000 and eventually zero. We
20 had a significant contingent in Afghanistan. During my
21 time there we plussed that up with the surge and

1 subsequently began a drawdown of those forces.

2 And with those operations going along, they
3 be consuming but in addition we worked the operations
4 across the AOR. So a typical day would be around
5 7:00 a.m., intel ops meeting that we have with my
6 counterpart, which is the J2, where we go through all
7 the operations that happened in the past and what are
8 ones are that are planned in the future and how we are
9 going to mutually support those.

10 And then I'll go through a series of
11 meetings that are teleview conferences with either
12 people down range, Washington, very high levels in
13 Washington, where we are gaining approvals and
14 authorities to conduct future operations or giving
15 status reports on current operations.

16 We have daily meetings with the commander,
17 if he's in the headquarters. If not, we would have
18 some contact with him throughout the day.

19 In that face we go like that through quite
20 an extensive workday. And then because there is a time
21 zone change, the downrange AOR is waking up about the

1 time we are going to bed here on the East Coast.

2 So when I would go home, I have the same
3 communications suite in my home on the air force base
4 as I did at headquarters. Because the network
5 basically continued. I didn't get much of a break and
6 certainly didn't get much of a break on the weekends.

7 Q. Sir, so you would stay in constant contact
8 with the operations folks even when you were home?

9 A. Yes. As a matter of fact, I would have
10 weekly scheduled televisual conferences with the
11 operations folks in Iraq and Afghanistan and my other
12 subordinate operations.

13 And then, throughout the day, almost daily,
14 I would be contacting them or they would be contacting
15 me for the support they needed for plans that we were
16 working on, for future plans, or some updates on
17 current ops.

18 And then you're always going to get
19 surprised because that is the only certainty in
20 CentCom, is biggest surprise. In our case it could be
21 a flood relief efforts in Pakistan to the Arab Spring

1 beginning and happened to reinforce an embassy in
2 Egypt.

3 So those things are not scheduled. And
4 anytime there would be a moment of free time you
5 generally, there's something you didn't plan for that
6 or that you had planned for and you have to break your
7 plan out that occurs.

8 Q. Sir, can you describe just very briefly
9 sort of the difference between current operations and
10 sort of J5 or further plans?

11 A. Sure. On headquarters staff there is
12 probably -- the core team that works in support of the
13 Central Command Commander is the J2 to J3 and the J5.
14 J2 does intelligence and J3 does current operations and
15 future plans but held through one year.

16 So my plan team worked on all future plans
17 out through one year and took the baton pass from J5
18 for the longer range plans at the one year point.

19 So if there was anything we were doing or
20 going to do within a year, then we were either planning
21 it or executing it. And in terms of the J2, that's a

1 very close tight team. Because we are mutually
2 supporting -- they have to know exactly what our game
3 plan is so they can support us with the best
4 intelligence that we possibly had. And also team with
5 us in building our plans.

6 Q. Sir, can you describe how the staff would
7 support you when you were sort of at home or otherwise
8 not necessarily in the headquarters?

9 A. I have a full watch team that's 24/7, mans
10 a joint operations center. That's overseen by an O6
11 Commander, or a senior, that manages the daily business
12 of both reports we get in but also tracks the current
13 ops that were going in the direction that we had
14 planned for.

15 And then, when we had those other events
16 that I talked about, we will build a separate watch
17 team. Sometimes we call them a CAT team, Crisis Action
18 Team. It's a flood relief in Pakistan, we have Crisis
19 Action Team stood up managing that. If there was an
20 uprising in Egypt and we were managing our support of
21 the Ambassador MC we have a Crisis Action Team

1 supporting that. And if we were doing particular
2 counterterrorism operations that were directed to
3 income levels, a team, separate team working that, and
4 they are called (inaudible) which is just a room where
5 we do the sensitive operations.

6 Q. Sir, did the crisis, when you had to set up
7 a Crisis Action Team, was that out of high or did you
8 have people that came in?

9 A. No. But that is kind of a double duty
10 thing. The watch team is on a certain rotation. But
11 will pull them in to a higher cadence to support those
12 teams.

13 Q. Sir, can you describe briefly how well you
14 and your staff were in the planning and execution
15 operations in Afghanistan and Iraq, how that
16 interaction worked?

17 A. Yes. Depending on at the tactical level
18 clearly the four star commander there is going to do
19 his plans. What we would do is provide them
20 overarching guidance and direction by developing a
21 broader plan. And we would integrate with other

1 entities that may be armed in their -- well, area of
2 hostilities.

3 For instance, areas in Afghanistan have to
4 be closely coordinated with ongoing operations and work
5 we are doing in Pakistan. But that Pakistan element
6 isn't in direct control of the commanders of the
7 forces. So we would cross the boundary there to help
8 them with integration. Or to get them approval
9 authorities and, that they would need to execute
10 particular operations.

11 When we are doing buildups and drawdowns we
12 also spend a significant amount of time ensuring they
13 have the right forces at the right time and the things
14 they need, whether that be support in the fights that
15 they are having with counter-IEDs, support with ISR,
16 new technologies, all the way through to ensuring that
17 we help them in coordination with some of our allies
18 and partners in load sharing in some of the missions.

19 Q. Sir, aside from the theaters in Iraq and
20 Afghanistan, what was CentCom's primary focus
21 operationally during the time you were --

1 A. Well, I wouldn't say our primary focus. We
2 had multiple lines of operations we are doing. Some of
3 the areas of focus is that we had security cooperation
4 with other countries. One of those that was in the
5 forefront of our minds all the time was
6 counterterrorism operations.

7 So across many of the countries in our AOR
8 we teamed with different levels and different degrees
9 with the countries in that counterterrorism fight.
10 Some countries we worked, we trained members of that
11 country and other countries worked with their forces.

12 But in all cases we are working through
13 these other countries. In some cases it was just
14 information sharing of intelligence information and
15 operation TTPs. So we are extensively building a
16 network as counterterrorism operations across all those
17 boundaries.

18 Q. Sir, I want to transition now to the
19 release of information from the CIDNE database. I
20 assume you became aware at some point, July 2010,
21 release of SigActs from Afghanistan?

1 A. We did. We were very much attuned to that
2 release of information.

3 Q. And, sir, how did your staff, just very
4 briefly, how did your staff use SigActs in the products
5 that are used by the J3?

6 A. It's probably good to explain what the
7 CIDNE database is a little bit as part of that. The
8 CIDNE database are files, it's just a name, really
9 think of it as a big hard drive. It's just where we
10 store all, a lot of our information operational
11 intelligence information at CentCom. And the SigActs
12 is sub-portion of that. SigActs means significant
13 activities.

14 And A significant activity could be
15 something as small as a singular event, like a small
16 arms fire in a particular area. Or something as large
17 as a major milestone in an operation or an event that
18 wasn't planned, or an operation that was either going
19 as planned or not as planned.

20 So basically just consider it a wide
21 ranging look at all the operations that would be going

1 on in CentCom. It's the basic core pieces of the way
2 we transmit back and forth between our headquarters and
3 subordinate command and share all the way up through
4 Washington events that are going on so that everyone
5 can track the current situation.

6 We augment that with other information,
7 televideo conference, other communication networks to
8 fill in the blanks. And typically the SigAct is the
9 core piece of information. With that maybe will also
10 come very high definition maps and photographs and
11 files that are attached that further describe the
12 event.

13 Could be, like I said, a small arms fire,
14 an IED event, could be the milestone in a current
15 operation or it could be a crisis action event, like a
16 missing soldier or something like that. All reported
17 through that system.

18 If you were to look at it, basically
19 looking at the play-by-play of what's going on in
20 CentCom. We call it, each of those would be what we
21 call ticktock, time on the clock in the event and they

1 can be pages long of information.

2 Q. Okay, sir. And when you learned that
3 WikiLeaks here released information from the CIDNE
4 Afghanistan database, were you at least initially aware
5 of what had been released?

6 A. We didn't have an initial sense. We knew
7 the scope was large. We didn't have the sense of
8 exactly what information. So, as with any one of those
9 things I talked about before, we stood up a Crisis
10 Action Team that the specific job was to evaluate if we
11 had current operations, positions, people vulnerable to
12 exploitation by the enemy because of the release. And
13 your first step is to take a look, is there something
14 that can be immediately used by the enemy against our
15 forces.

16 Q. And, sir, you said you stood up a Crisis
17 Action Team; is that correct?

18 A. Yes, at the CentCom level.

19 Q. And do you recall approximately how many
20 individuals on your staff working because of that?

21 A. Well, it was a combined J2/J3 team so it

1 was a rather large team. Typically in the room at any
2 one time were probably between 10 and 20 people in
3 there working on that team. And also reached out
4 remotely to, some people don't have to leave their desk
5 to support the team. They are given an assignment and
6 they do their assignment from there and they are
7 feeding that into the team.

8 Q. And, sir was that a 24/7 operation?

9 A. It was.

10 Q. Do you recall how long the Crisis Action
11 Team was in place?

12 A. Well, we dealt with the WikiLeaks thing for
13 my entire tenure in CentCom. But the Crisis Action
14 portion, what we were initially looking at was ongoing
15 operations that could possibly be compromised, any TTP
16 that that we would want to immediately alter because it
17 was compromised. Locations and maybe physical security
18 related to those location.

19 So for that portion of the look, which
20 didn't get into the people portion, in other words,
21 whether those be sources or other individuals probably

1 took several weeks. I don't remember exactly.

2 Q. If the SigActs only went through December
3 of 2009, why were you concerned about potentially
4 operations in locations that might be (inaudible)

5 A. Operations in CentCom aren't done in small
6 bites. They are generally part of larger plans. And
7 SigActs, to put things in context, will talk about a
8 particular event, but it will also put in the context
9 of a larger operation.

10 So in that SigAct can be, even though I
11 think actually some of those SigActs went, at least
12 through the end of 2009, and we are now in the July
13 timeframe of 2010, clearly went and were in the period
14 of operations that we were doing then.

15 In addition, locations, physical locations
16 that we were using absolutely would have been the same.
17 Some changes to them, but in a general sense the
18 physical security, details that are described and
19 locations we are using, would be pretty static. They
20 probably did not change in that timeframe. And most of
21 the TTPs described in there, how we got information

1 would not have changed also.

2 So that evaluation was important to do.

3 Even if he couldn't change it, we needed to know where
4 our vulnerabilities were.

5 You have to think of Afghanistan as having
6 a lot of remote locations, some are FOBs and well
7 understood, and the enemy know they are there. Other
8 places we may use as bases or locations that may not be
9 so understood.

10 And you can understand that we would not
11 want, that that look was to ensure that some of those
12 locations were not compromised. So we wouldn't, in a
13 current or planned operation ongoing, step into a
14 potential danger zone because we are visiting a place
15 that the enemy now knows we are using.

16 MAJOR HURLEY: Ma'am -- 1000(b)(4).

17 THE COURT: Noted.

18 BY CAPTAIN MORROW:

19 Q. Sir, at any point did you or your staff
20 become involved in the process to notify individuals in
21 Iraq and Afghanistan that may have been made public or

1 compromised in the SigActs?

2 A. Absolutely. We teamed now with the J2
3 organizations, which stood up a task force that went
4 well outside the CentCom headquarters to identify any
5 source -- source term that we used for this piece was a
6 name that could be identified as an individual that had
7 connection to the United States in terms of passing
8 information to.

9 So once we determined that there was a
10 significant number of those names, the task force stood
11 up to define them and categorize them and then also
12 help us --

13 Q. Are you speaking of the RITF at this point?

14 A. I am. And the RITF's function, I wasn't on
15 it, but we coordinated with that team. When I say I
16 wasn't on it, my team contributed to that team. I
17 personally was not on the RITF. They were in a
18 different organization. They are a different
19 organizational structure. We teamed with them. That's
20 what I mean.

21 The RITF helped us to identify not only the

1 names of these folks, but their last known location,
2 what risks they were assessing these people to be
3 under.

4 And then we turned around and issued two
5 fragos, one to U.S. forces in Afghanistan and another
6 one to U.S. forces in Iraq which, referred to as a duty
7 to inform, but was really an order that told them so
8 that we can continue to have and maintain, to maintain
9 the current sources we have and to continue to gain
10 future sources that we had to go inform the people that
11 we could contact that their name was on this list and
12 that they were potentially in jeopardy and some of them
13 in danger of retaliation from the enemy.

14 We also did it because we had moral and
15 ethical responsibility to make those notifications.

16 Q. Sir, who issued these fragos?

17 A. I did. They were released under the
18 private Director of Operations, which was me.

19 Q. And, sir, what was the direction with
20 respect to the actual tactical level execution of these
21 operations from the CentCom?

1 A. It was pretty clear we had to do two
2 things; we ordered them to, based on the category of
3 how we laid these out according to the RITF, we had to
4 inform these people their name was on this and,
5 therefore, the enemy likely had access to knowing they
6 were -- that they had -- or a source to the United
7 States and they would likely be in danger.

8 And then they had to come back to us on
9 when they made the notification, how they made the
10 notification, if they didn't make the notification,
11 why.

12 Q. You said they had to come back to you. Can
13 you describe how those missions were tracked?

14 A. We tracked them to the RITF team. So the
15 J2 track and force and reported them, they kept the
16 database for us. They were the housekeeper of the
17 information.

18 We also, it wasn't just people in
19 Afghanistan. We expanded it to also include villages
20 because there were village names listed -- and I don't
21 want -- for those that haven't been to Afghanistan, but

1 the villages -- each area of Afghanistan has a shadow
2 Taliban governor associated with it. And villages in
3 and of themselves were cooperating with either the
4 coalition or U.S. forces can be retaliated against by
5 the Taliban.

6 And as a result, in some cases we had to
7 notify villages. So not an individual, but the village
8 either let us use some facility in there or helped us
9 in passing information, however it was described. So
10 we were sensitive to the villages also.

11 Q. Sir, do these (inaudible) impact operations
12 at CentCom headquarters in Iraq --

13 A. I'll take that in two parts. CentCom
14 headquarters and beyond, absolutely. Because standing
15 up a task force that you just talked about is very
16 consuming. Standing up a Crisis Action Team that I
17 talked about was consuming. And then this is all
18 additive. We are trying to manage all those operations
19 I talked to you before with the same team. We have
20 layered on a new mission, not just for the
21 headquarters. So now, when it gets down to the

1 commanders on the ground, eventually soldiers have to
2 notify these people.

3 Now we did that when we can with our
4 partners. But this was the U.S. Order, not an ISAAC.
5 So we worked to notify these individuals with whatever
6 missions that the commanders on the scene determined
7 that they had to do that.

8 Maybe I should give you a little time
9 perspective on this. This was not a small operation.
10 We issued the initial order to Afghanistan, I believe,
11 in August of '10. We didn't get the final reported
12 until May of '11.

13 So that's a length of time it took to work
14 through this list. And I can give you more specifics
15 on the numbers. But they are classified in terms of
16 the numbers, size of it.

17 MAJOR HURLEY: Captain Morrow, excuse me.
18 1000(b)(4).

19 THE COURT: Noted.

20 BY CAPTAIN MORROW:

21 Q. Sir, I would like to transition to the

1 release of purported Department of State cables by
2 WikiLeaks.

3 Do you recall becoming aware of that
4 release of that information in the
5 November-December 2010 timeframe?

6 A. I do.

7 Q. And without getting into any specifics, did
8 you observe any impact to CentCom operations as a
9 result of this release?

10 A. There was absolutely impact as a result of
11 the release of those cables, purported leaks.

12 CAPTAIN MORROW: Ma'am, at this time we
13 move to a closed session.

14 THE COURT: Go ahead.

15 EXAMINATION BY MAJOR HURLEY

16 BY MAJOR HURLEY:

17 Q. Good morning, sir.

18 A. Good morning.

19 Q. Sir, let's talk about SigActs for a second
20 All right? And, sir, whenever I ask you questions, if
21 your inclination is just to answer yes or no, you still

1 have to answer aloud to the court reporter.

2 A. Okay.

3 Q. Thank you. Sir, inclusive in your
4 testimony on direct was that SigActs often don't
5 provide all the information an individual needs to
6 assess what happened, correct?

7 A. It depends on -- that's not a yes or no
8 answer. It absolutely depends on if it's a simple
9 incident or more complex incident. In some cases it's
10 pretty clear that the SigAct covers all the pieces of
11 information you need to know.

12 In others, because the situation is
13 evolving or more complex, there may be amplified
14 information that we need to gather from whoever is
15 making the report.

16 Q. So you have to fill in the blanks
17 sometimes?

18 A. We do sometimes.

19 Q. Do SigActs tell you what happened at a
20 specific location?

21 A. SigActs build on each other. So one

1 individual one may not tell you all. It may have
2 started and then it may be 5 or 6 that tell the whole
3 story.

4 Q. Yes, sir. But either you need those other
5 SigActs or perhaps other information to understand
6 completely what had occurred or what was described in
7 the SigAct; is that right?

8 A. That's correct. WikiLeaks though, the
9 SigActs filed, ones that were tied to each other were
10 there. So you just had to go backward or forward in
11 the files to find them.

12 Q. Yes, sir. But the other amplifying
13 information wasn't there?

14 A. There were pieces that weren't there,
15 that's correct.

16 Q. So my next question, sir, SigActs, just
17 this is a generalized question, SigActs tell you what
18 happened at a specific location and time?

19 A. They do.

20 Q. And SigActs aren't forward looking,
21 correct, sir?

1 A. They often are. And the reason that they
2 are is because they may be telling you there will be a
3 significant activity report, but it may be talking
4 about a phase in an operation that will refer to a
5 future phase that's coming up.

6 Which is why we had to go back and look
7 hard at these SigActs. So the answer to that question
8 is, no, I guess, because they are forward looking in
9 some cases. If it's part of a larger operation, they
10 typically have enough information that puts the
11 operation in context and talk about the next phase.
12 That SigAct may jeopardize the next phase or set up the
13 next phase.

14 Q. Yes, sir. SigActs themselves don't state
15 doctrine, correct? Let me give you an example.
16 SigActs don't say, if the enemy does one X, then we are
17 going to do Y?

18 A. SigActs may refer to some doctrine, and
19 especially if we deviated, from deviated doctrine or
20 followed doctrine. But doctrine can easily be deduced
21 from them, because you just have to track down from

1 one -- (inaudible) two or three SigActs you have the
2 TTP.

3 Q. Now, sir, my understanding is that a source
4 the expression source is a term of art. Is that
5 accurate?

6 A. Depending on who is using it. It may have
7 different connotations to an intelligence person. And
8 for the terms of WikiLeaks, we identified, for the RITF
9 identified and made a definition for source that we
10 would use that it was, I don't recall exactly the
11 language they used, but it basically meant if there was
12 a name there that could be tied to cooperating with the
13 United States, that would be called a source for the
14 WikiLeaks piece.

15 Q. True intelligence sources, they are not
16 captured in information by their name, correct?

17 A. In the SigActs you would not identify
18 someone as a human source. That would require a higher
19 level classification. However, there were sources that
20 were in WikiLeaks. In other words, there were names
21 that were also, now source is the word, specific

1 individuals that fit much higher intelligence
2 classification definition that were listed there. You
3 just wouldn't see that associated next to their name in
4 the SigAct.

5 Q. Because we are managing them as a human
6 intelligence source in this situation, they would be
7 listed by number?

8 A. That's correct. Any of the names though
9 it's not about whether they were a direct source or
10 not. It was if they were associated cooperating with
11 the United States puts them in danger.

12 Q. Human reports are part of the CIDNE
13 database, correct?

14 A. There is human pieces and strains that are
15 in the CIDNE database. It may not tell you who it came
16 from.

17 Q. And that's separate and a part from the
18 SigAct --

19 A. No, it can be right in the SigActs.
20 There's several events that are ongoing that have a
21 line of information. And it's clear in the context

1 that that line came from a human source. It just won't
2 tell you where.

3 Q. There is a human section in the CIDNE
4 database?

5 A. There is. May be the higher
6 classification. I can't say exactly in the CIDNE
7 database. May be in higher classification. Separate
8 from SigAct is what your question was.

9 Q. Yes. And SigActs captured the names of
10 these individuals or individuals names were in the
11 SigActs, right?

12 A. Absolutely.

13 Q. And their name could be listed there just
14 as a result of single interaction with an individual
15 that was described in the SigAct?

16 A. That's correct. And that may be all it
17 takes to have an association with cooperation with the
18 U.S. is where the danger would come in.

19 Q. And these individuals, these contacts, they
20 can be people friendly, they can be people disposed to
21 like the coalition forces and to want to participate in

1 their activities?

2 A. Well, the whole purpose of my fragos that I
3 issued was to be able to have trust built up that let
4 more people want to continue cooperate with us and work
5 with us and the coalition.

6 Q. So I guess ultimately my question is, these
7 individuals that are listed in the SigActs, they can be
8 friendly?

9 A. Yes, absolutely.

10 Q. And they can also be people that are
11 potentially unfriendly to coalition forces, just
12 individuals that were taken note of in the course of
13 interaction?

14 A. Some would be unknown, that's correct.

15 Q. And there's no way of discerning that, as
16 you just looked at the data itself, correct?

17 A. It depends on the specific SigAct. You
18 would have to read it. Sometimes it attributes
19 information we got from some of the people and has to
20 be the reason the next step was taken.

21 Q. These names in the SigActs, in the

1 purported SigActs --

2 A. That's why we did that classification in
3 RITF to help get to that point. We wouldn't go out
4 there and notify one of the bad guys that is name is on
5 the list. Does that make sense?

6 Q. It certainly does.

7 A. That's why I produced some of the names on
8 the list.

9 Q. Those names, sir, in these purported
10 SigActs, they were in English?

11 A. No. Well, they were written in English on
12 the SigActs, but they weren't English names, if that's
13 what you mean.

14 Q. Yes, sir. I guess what I'm saying is, they
15 were typed up using the alphabet?

16 A. That we use.

17 Q. And spelled by the individual actually
18 putting in this information into the CIDNE database?

19 A. Again RITF did their homework by going back
20 and looking at each of these to identify is this a
21 person that we can put our finger on and which one is

1 it. By putting the other pieces of clues together that
2 were in the SigAct and other known intelligence
3 information to identify so we could get it down to a
4 specific person.

5 Q. Who put that information, the name of this
6 person into the CIDNE database?

7 A. Whoever was writing the report.

8 Q. And that person ostensibly speaks English
9 uses the English language?

10 A. In some cases. In other cases they could
11 be (inaudible) speakers. They could be right there
12 with the interpreters with them as they are filling it
13 out. Depends what public report is being filled out.

14 Q. But the report is ultimately intended for
15 an English --

16 A. English speaking audience; that's correct.
17 But if you can imagine, in Iraq and Afghanistan
18 identifying names and people is really important. So
19 when they do that, they don't take that duty lightly.
20 It's much like -- so if you are going to put a specific
21 name in there, you are generally going to do the

1 homework to make sure it's going to be traceable.

2 Q. Well, there a lot of different English
3 spellings for Mohammed, are there not, sir?

4 A. There are, but not in that location in that
5 particular part of Afghanistan. There will be enough
6 other supporting information to actually help us
7 identify which person it is and then which tribal
8 element that he may be attached to.

9 So you can start to get down to -- we have
10 been at war in Afghanistan for 10 years, so we have
11 this part --

12 Q. So you would agree that there is sometime
13 difficulties in translating these names back and forth?

14 A. For us to read, but not for the intel
15 community to help us figure out who they are.

16 Q. So it's your testimony that those names are
17 likely to be accurate and understandable as they are
18 translated back and forth to these languages?

19 A. The preponderance of them we were able to
20 identify and associate them with -- so, yes, in answer
21 to that question, I believe -- I'm certain there are

1 some errors in that.

2 But when we did this, announced this in a
3 task force can give you more specifics, but we
4 categorized them by different levels A-B-C to sift out
5 any errors or problems there would be so we would not
6 be notifying someone that didn't exist or trying to
7 notify someone that didn't exist or trying to notify
8 somebody that wasn't on our team.

9 Q. Yes, sir. Let's talk about the duty to
10 warn that you discussed with Captain Morrow during your
11 direct examination.

12 A. We called it a duty to inform. But that
13 was an abbreviated title. Regular had a different
14 title. I can't recall exactly what it was.

15 Q. Sir, I'll just call it a duty to inform.
16 Those are orders issued by you at CentCom Headquarters?

17 A. They were.

18 Q. One for Afghanistan and one for Iraq?

19 A. That's correct.

20 Q. And, as you testified -- just one second --
21 just to summarize your testimony with Captain Morrow,

1 you indicated there were two things that the
2 subordinate organizations had to do. The first was to
3 inform the people where they could; is that right, sir?

4 A. Yes.

5 Q. And the second was to inform, the reporting
6 task that you gave back to these organizations was,
7 inform when the contact was made, how the contact was
8 made and if there was no contact, why there was no
9 contact?

10 A. And I may not have those exactly right.
11 That's the general tryst of what the frago said.

12 Q. Sir, there was other language in the frago,
13 specifically there was instruction to, from you to the
14 subordinate organizations to mitigate the risk?

15 A. Well, in the frago the way it said was,
16 evaluate the risk. I don't know that mitigate was the
17 point that we made. It's up to the commander on the
18 scene to determine the level of risk he's willing to
19 accept in carrying out the operation.

20 So in all cases those commanders worked to
21 mitigate risk to the lowest level possible for any

1 operations.

2 Q. Absolutely.

3 A. But in some cases there may be someone
4 that's in such a location or some other reason he can't
5 get the risk of that notification exceeds that which
6 the commander would be willing to accept for that
7 potential value gain. That's up to that local
8 commander. He would report to us if he couldn't do it
9 any longer.

10 Q. That was part of his reporting requirement
11 was to explain that back?

12 A. Yes.

13 Q. Through the chain. So let's talk about
14 evaluating risk is perhaps intuitive, but let's walk
15 through those steps.

16 In evaluating risk, first you assess a
17 situation, correct?

18 A. Risk has three levels the way that we
19 looked at it in CentCom. One is, there's a value of
20 risk. It's some level you apply, high level, high,
21 medium, low, however you want to parse that out. And

1 then risk to a specific thing. Is it to the force or
2 mission, or both. In some cases it's both. And the
3 risk has a duration. How long is the risk for? For a
4 mission it may be the length of the mission or may be
5 for sometime afterwards, if it's some other event.

6 So risk is very complex -- complex piece.
7 And, as you can imagine, there's an inherent level of
8 risk just being in Afghanistan. So you are starting at
9 that level.

10 Q. Yes, sir. And you left it to the
11 individual commanders to make that decision considering
12 the risk, as they analyzed it?

13 A. As we always do.

14 Q. As you indicated implicitly I think in one
15 of the responses to my question, sir, the responses
16 that you received from the subordinate commands fell on
17 a wide range. Is that right?

18 A. What do you mean by that?

19 Q. Well, let me give you the categories, as I
20 understood them. First, there were instances where the
21 person was warned?

1 A. Right.

2 Q. And not only the person, but if it was a
3 larger group, whether it was family or even a village
4 that group?

5 A. That's correct.

6 Q. And in other instances the person was not
7 warned. Is that right?

8 A. That's correct.

9 Q. And then the third set of responses that
10 you received back were, was the response to indicate
11 that subordinate commander didn't look and he listed
12 out his reasons why the search was not conducted?

13 A. Well, I don't know that he didn't look.
14 Afghanistan is not like here in the United States.
15 There is not a street address that we can go to.

16 So information about the individual -- it's
17 not simple to find an individual for all the reasons,
18 so that's what increases risk in these operations.
19 You're not walking up to a door in the street saying,
20 hey, Mr. Smith, want you to know your name is on the
21 list.

1 We maybe didn't have an operation going to
2 that village. Maybe our presence going to that village
3 can be a problem, we may have to mount an operation to
4 go to that village. So there may be normal patrols
5 through there. You have a full range of what could be
6 going on. Or the Afghans may be able to notify the
7 person. So we would explore all the means that we had.

8 Q. All the options?

9 A. That's correct.

10 Q. One thing that subordinate commanders would
11 do to mitigate the risk would be to synchronize this
12 notification with whatever ongoing operations they had?

13 A. If possible, absolutely. That was the
14 routine patrol piece.

15 Q. And, sir, you were in a position to receive
16 these responses from the field?

17 A. These responses came in through the J2
18 team. We tracked them in a similar database so that we
19 could do accounting. Now we are accounting -- we are
20 certainly not going to question the commander for what
21 they did or didn't do. We were merely making sure they

1 followed the intent of the instruction until we got to
2 closure.

3 Q. Sir, did you ever see a report where there
4 was a coalition forces casualty that was incurred as a
5 result of executing this duty to inform mission?

6 A. No. I wouldn't have expected to see one in
7 any way because of the, what I just talked about, that
8 in almost all cases, not in almost all cases, but to
9 make that direct connection would be very hard to make
10 because of the complexities of Afghanistan.

11 MAJOR HURLEY: I have nothing further, Your
12 Honor.

13 THE COURT: Redirect?

14 CAPTAIN MORROW: No, Your Honor.

15 THE COURT: All right. Members of the
16 gallery and the public, we are going to proceed into a
17 closed session. Before we do that let's talk about we
18 have another witness coming today. I assume we are
19 going to have another witness testify today.

20 MR. FEIN: Yes, Your Honor.

21 THE COURT: There are some additional

1 administrative things that need to be done over the
2 lunch hour. So what time do you think is reasonable to
3 inform the public that we will be coming back on the
4 record. And please, again, think. I don't want to, to
5 the extent we can avoid it, extend it by 15 minute
6 increments. So go long.

7 MR. FEIN: Can we have a moment, Ma'am?

8 THE COURT: Yes.

9 CAPTAIN MORROW: Your Honor, we recommend
10 1500.

11 THE COURT: Members of the public, we are
12 going into closed session and we will be reconvening
13 1500 or 3:00 for the next open session that we will
14 have today.

15 MR. FEIN: And, Ma'am, (inaudible)

16 THE COURT: Is there anything else we need
17 to address before I recess the Court?

18 MR. FEIN: No, Ma'am.

19 THE COURT: All right. Rear Admiral
20 Donegan, please do not discuss your testimony with
21 anyone during the course of the recess.

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(The Court recessed at 11:06 a.m.)

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